THE HON'BLE SRI JUSTICE BILAL NAZKI

AND

THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

WRIT PETITION NO.16497 OF 2006

Dated 01-05-2007

Between:

M/s Sri Vyshnavi Foods Pvt Ltd …Petitioner

And

Deputy Commissioner (CT)
And another …Respondents

THE HON'BLE SRI JUSTICE BILAL NAZKI

AND

THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

WRIT PETITION NO.16497 OF 2006

O R D E R *(Per the Hon'ble Sri Justice Bilal Nazki):*

Heard learned counsel for the parties.

It is submitted by learned counsel for the parties that the controversy raised in this writ petition is covered by the judgment of this Court, dated 05-03-2007, in W.P.Nos.15749 of 2006 and batch.

The petitioner is aggrieved of the order of the Deputy Commissioner (CT)-the first respondent, passed on 01-05-2006, which was based on the Circulars, dated 11-04-2005 and 23-03-2006, issued by the Commissioner of Commercial Taxes. While disposing of W.P.Nos.15749 of 2006 and batch, we took note of the fact that the Government had issued a memo on 17-11-2006 and the Circular issued by the Commissioner dated 23-03-2006 has been withdrawn by that memo. Therefore, the grievance of the petitioner on this account does not survive.

We have gone through the Circular dated 11-04-2005. This Circular is clearly an interference with the quasi-judicial powers of the statutory authorities. The authorities under law who make assessments are quasi-judicial authorities and are supposed to

administer the law to the best of their understanding and whether law is to be applied in a particular fashion or not, the higher authorities cannot give instructions. Same questions arose in W.P.Nos.15749 of 2006 and batch.

In this view of the matter, following the judgment of this Court, dated 05-03-2007, in W.P.Nos.15749 of 2006 and batch, we quash the Circular dated 11-04-2005 issued by the Commissioner of Commercial Taxes and also the order dated 01-05-2006 passed by the first respondent and direct the first respondent to pass appropriate orders afresh, after hearing the petitioner, in accordance with law.

The writ petition is accordingly allowed. No order as to costs.

(Bilal Nazki,J)

Dated 1st May, 2007

(Nooty Ramamohana Rao,J)

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